

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

HUGH F. O'NEIL BARNES,)	
Petitioner)	CIVIL ACTION NO.
)	04-11422-RCL
v.)	
)	
UNITED STATES OF AMERICA,)	
Respondent)	
)	

**Government's Motion To Extend Time Within Which
To File Its Response To Petitioner's Motion To
Vacate Sentence Pursuant To 28 U.S.C. §2241**

The United States of America, by Michael J. Sullivan, United States Attorney, and Michael J. Pelgro, Assistant U.S. Attorney, hereby files this motion to extend the time within which to file its response to the petitioner's motion to vacate his sentence pursuant to 28 U.S.C. §2255. The government requests that the Court extend the time to Monday, December 27, 2004.

In support of this motion, the government states that, on December 21, 2000, the petitioner was sentenced to 135 months' imprisonment after having pled guilty earlier that year to a federal indictment charging him with conspiracy to import cocaine. The petitioner filed a direct appeal of his sentence and the Judgment was affirmed by the Court of Appeals on March 3, 2003. The petitioner is currently serving his sentence at FCI Elkton in Lisbon, Ohio.

The petition may be time-barred, having been filed on June 14, 2004, and, in any event, is completely meritless. The

government is in the process of preparing a response dealing with both the procedural issues and the merits. The government, however, needs additional time to finish the memorandum due to the fact that the AUSA who prosecuted this case is no longer with the U.S. Attorney's Office. This case has been assigned to AUSA David Tobin, who has responsibilities in several other multiple-defendant investigations and cases, including two narcotics cases in which Title III wiretaps were obtained. AUSA Tobin is currently engaged in a jury trial before Chief District Judge William G. Young in the case of United States v. Eric Lino. Due to these and several other investigations and cases, the government needs additional time to complete its response.

Based on the foregoing, the government respectfully requests that the Court extend the time within which the government has to file its response to Monday, December 27, 2004.

Respectfully submitted,

MICHAEL J. SULLIVAN
United States Attorney

By: /s/Michael J. Pelgro
Michael J. Pelgro
Assistant U.S. Attorney

DATED: November 18, 2004.

CERTIFICATE OF SERVICE

This is to certify that I have this day served upon the person listed below a copy of the foregoing document by depositing in the United States mail a copy of same in an envelope bearing sufficient postage for delivery:

Hugh F. O'Neil Barnes
Register No. 45896-054
FCI Elkton
P.O. Box 10
Lisbon, OH 44432

This 18th day of November 2004.

/s/Michael J. Pelgro
MICHAEL J. PELGRO
ASSISTANT UNITED STATES ATTORNEY